

(4) Other substances applicable Federal, state, tribal, or local law define and regulate as “hazardous.”

Holder means any entity with a BLM right-of-way authorization.

Management overhead costs means Federal expenditures associated with BLM’s directorate, including all BLM State Directors and the entire Washington Office staff, except where a State Director or Washington Office staff member is required to perform work on a specific right-of-way case.

Monetary value of the rights and privileges you seek means the objective value of the right-of-way or what the right-of-way grant is worth in financial terms to the applicant.

Monitoring means those actions the Federal government performs to ensure compliance with the terms, conditions, and stipulations of a grant.

(1) For Monitoring Categories 1 through 4, the actions include inspecting construction, operation, maintenance, and termination of permanent or temporary facilities and protection and rehabilitation activities until the holder completes rehabilitation of the right-of-way and BLM approves it;

(2) For Monitoring Category 5 (Master Agreements), those actions agreed to in the Master Agreement; and

(3) For Monitoring Category 6, those actions agreed to between BLM and the applicant before BLM issues the grant.

Public lands means any land and interest in land owned by the United States within the several states and administered by the Secretary of the Interior through BLM without regard to how the United States acquired ownership, except lands:

(1) Located on the Outer Continental Shelf; and

(2) Held for the benefit of Indians, Aleuts, and Eskimos.

Reasonable costs has the meaning found at section 304(b) of the Act.

Release has the meaning found at 42 U.S.C. 9601(22) of CERCLA.

Right-of-way means the public lands BLM authorizes a holder to use or occupy under a grant.

Site means an area, such as a mountaintop, where a holder locates one or more communication or other right-of-way facilities.

Substantial deviation means a change in the authorized location or use which requires:

(1) Construction or use outside the boundaries of the right-of-way; or

(2) Any change from, or modification of, the authorized use. *Examples of substantial deviation include:* Adding equipment, overhead or underground lines, pipelines, structures, or other facilities not included in the original grant.

Tenant means an occupant who is paying a facility manager, facility owner, or other entity for occupying and using all or any part of a facility. A tenant operates communication equipment in the facility for profit by broadcasting to others or selling communication services. For purposes of calculating the amount of rent that BLM charges, a tenant’s use does not include:

(1) Private mobile radio or internal microwave use that is not being sold; or

(2) A use in the category of “Other Communication Uses” (see paragraph (a) of the definition of Communication Use Rent Schedule in this section).

Third party means any person or entity other than BLM, the applicant, or the holder of a right-of-way authorization.

Tramway means a system for carrying passengers, logs, or other material using traveling carriages or cars suspended from an overhead cable or cables supported by a series of towers, hangers, tailhold anchors, guyline trees, etc.

Transportation and utility corridor means a parcel of land, without fixed limits or boundaries, that holders use as the location for one or more transportation or utility rights-of-way.

Zone means one of eight geographic groupings necessary for linear right-of-way rent assessment purposes, covering all lands in the contiguous United States.

§ 2801.6 Scope.

(a) *What do these regulations apply to?* The regulations in this part apply to:

(1) Grants for necessary transportation or other systems and facilities which are in the public interest and which require the use of public lands for the purposes identified in 43 U.S.C.

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1761, and administering, amending, assigning, renewing, and terminating them;

(2) Grants to Federal departments or agencies for transporting by pipeline and related facilities oil, natural gas, synthetic liquid or gaseous fuels, and any refined products produced from them; and

(3) Grants issued on or before October 21, 1976, under then existing statutory authority, unless application of these regulations would diminish or reduce any rights conferred by the original grant or the statute under which it was issued. Where there would be a diminishment or reduction in any right, the grant or statute applies.

(b) *What don't these regulations apply to?* The regulations in this part do not apply to:

(1) Federal Aid Highways, for which Federal Highway Administration procedures apply;

(2) Roads constructed or used according to reciprocal and cost share road use agreement under subpart 2812 of this chapter;

(3) Lands within designated wilderness areas, although BLM may authorize some uses under parts 2920 and 6300 of this chapter;

(4) Grants to holders other than Federal departments or agencies for transporting by pipeline and related facilities oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced from them (see part 2880 of this chapter);

(5) Public highways constructed under the authority of Revised Statute (R.S.) 2477 (43 U.S.C. 932, repealed October 21, 1976);

(6) Reservoirs, canals, and ditches constructed under the authority of R.S. 2339 and R.S. 2340 (43 U.S.C. 661, repealed in part, October 21, 1976); or

(7)(i) Any project or portion of a project that, prior to October 24, 1992, was licensed under, or granted an exemption from, part I of the Federal Power Act (FPA) (16 U.S.C. 791a et seq.) which:

(A) Is located on lands subject to a reservation under section 24 (16 U.S.C. 818) of the FPA;

(B) Did not receive a grant under Title V of the Federal Land Policy and

Management Act (FLPMA) before October 24, 1992; and

(C) Includes continued operation of such project (license renewal) under section 15 (16 U.S.C. 808) of the FPA;

(ii) Paragraph (b)(7)(i) of this section does not apply to any additional public lands the project uses that are not subject to the reservation in paragraph (b)(7)(i)(A) of this section.

§ 2801.8 Severability.

If a court holds any provisions of the regulations in this part or their applicability to any person or circumstances invalid, the remainder of these rules and their applicability to other people or circumstances will not be affected.

§ 2801.9 When do I need a grant?

(a) You must have a grant under this part when you plan to use public lands for systems or facilities over, under, on, or through public lands. These include, but are not limited to:

(1) Reservoirs, canals, ditches, flumes, laterals, pipelines, tunnels, and other systems which impound, store, transport, or distribute water;

(2) Pipelines and other systems for transporting or distributing liquids and gases, other than water and other than oil, natural gas, synthetic liquid or gaseous fuels, or any refined products from them, or for storage and terminal facilities used in connection with them;

(3) Pipelines, slurry and emulsion systems, and conveyor belts for transporting and distributing solid materials and facilities for storing such materials in connection with them;

(4) Systems for generating, transmitting, and distributing electricity;

(5) Systems for transmitting or receiving electronic signals and other means of communication;

(6) Transportation systems, such as roads, trails, highways, railroads, canals, tunnels, tramways, airways, and livestock driveways; and

(7) Such other necessary transportation or other systems or facilities which are in the public interest and which require rights-of-way.

(b) If you apply for a right-of-way grant for generating, transmitting, and distributing electricity, you must also